

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PLAINTIFF’S
DECLARATION

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DONALD ZARDA,

10 Civ 4334 (JFB)

Plaintiff,

ALTITUDE EXPRESS, INC., et ano.

Defendants.

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Donald Zarda, plaintiff herein, does hereby declare under penalty of perjury as follows:

1. I am an experienced skydiver, having over 20 years’ experience and having made over 5,800 jumps to date, although I have now been phasing my jumping career into wingsuit base-jumping – jumping from cliffs, the top of fjords, and when permissible, tall buildings. I am also studying to receive a Bachelor’s of Science in Aviation Management specializing in Logistics at Embry – Riddle Aeronautical University where I am just one class (3 credits) from obtaining a Bachelor’s Degree.

2. Although I did apply for some tandem – instructing jobs since my termination, and did perform one day of tandem jumps, I felt uncomfortable doing it, and my heart was not in it like before I was fired from Skydive Long Island (“SDLI”). After that horrible event, I soon resolved I could not do another tandem jump until I was vindicated from a false charge that I “inappropriately” touched a woman during a jump.

3. This is not just out of principal, but also out of fear. A jump involves touching at many parts of the passenger’s body for the passenger’s safety and as necessary to perform the

job. As Rich Winstock put it at his deposition, a skydive instructor is out of necessity “invading [the passenger’s] space.” If a Skydive owner could fire me, in part, for doing my job, without any semblance of investigation, then I was without protection from any employer, and would not want to expose myself to further injury to my character.

4. It was chiefly Raymond Maynard who injured my character because, as I stated at my deposition at pages 237-40, he is a man of his significant experience who knew I had to touch the passenger at the hips, and who knew I was a homosexual, and who did no investigation whatsoever. He would not even let me see the video of the jump in question so that I could defend myself. If he would even slightly credit a frivolous allegation, by a man made on behalf of a woman, the latter whom he didn’t even speak to, at any time, ever, then I have no protection at all as a tandem instructor, and I fear that my fear of being accused of “inappropriate touching” might have compromised my expertise.

5. I make this affidavit in furtherance of my motion for summary judgment and in opposition to the defendants’. I stand by my deposition, but make this statement for the purposes of narrative clarity.

6. I worked at SDLI first in 2001. During that time, admitting one was gay was not something that might help someone from getting a job – except perhaps at a gay establishment – and I am certain I did not tell Ray Maynard I was gay before he hired me. Further, I never told any passenger my sexual orientation. I probably told one or two tandem instructors, or they figured it out when I told them I went to the Fire Island Pines for the weekend, and word eventually got to Ray.

7. Perhaps when Ray learned I was gay, he fired me. I personally believe that the reason I was fired – based on the chief instructor’s brief statement to me after Ray gave me the news – was that a customer complained that I would not perform flips from the airplane, a maneuver which at that time was deemed unsafe and forbidden by manufacturers of tandem equipment. Instructors were made aware of this manufacturer’s policy by a joint bulletin issued by the three main tandem gear manufacturers. As it was at the time, the very most senior and well known industry expert and licensing examiner for the gear manufacturer of the equipment I was using (Bill Morrissey), happened to be also working at SDLI. Had he seen me do a flip, I could have lost my license. The customer complained because he saw another tandem instructor perform the unsafe maneuver; that instructor was willing to risk his license, but I was not, and I recall that even Maynard admitted at his deposition, that the maneuver was unsafe. I left SDLI knowing I had been treated unfairly, but knowing that I had made the right decision. For the next several years, I worked as a tandem instructor at several other dropzones and skydiving centers.

8. I heard at my deposition that one or two women came to Ray “in tears” that I had told them my sexual orientation. In my informed opinion as a gay person, not so. Tears? Really? I have told some women friends in my personal life that I am gay, and not one of them cried. In fact, I have found that as a gay man, women are more sensitive and more attuned with the interests and feelings of gay men. In my opinion as a lifelong gay man, for a stranger to cry in response to having been told someone is gay is not just incredible, it is nonsensical. While a few people close to me initially weren’t so happy about learning I am gay, no one cried, when they perhaps, at a different time, had a motive to. In my opinion as a gay person, it seems not only unusual, but absurd that someone I didn’t even know would cry if I told her I am gay. In my opinion as a male, the suggestion that a woman would cry when told that someone is gay is a

sexist remark that reduces a woman to a delicate object, unable to handle the “horrific” idea that a man could love another man.

9. In any case, I said no such thing to any passenger – again, 12 years ago was a different era concerning gay rights, and I had just come out of the closet and was very discrete. Furthermore, there were few job protections for gay people, including New York. Additionally, Ray did not tell me that this is why I was fired; he just told me to get out, and the chief instructor told me about the other customer complaint concerning the flip. If I had satisfied that customer, however, that too could have been a reason to fire me, or for me to lose my license, so I was apparently in a Catch 22.

10. I am 100% gay. I have no physical attraction to women, have never been with a woman, and have never had a romantic relationship with a woman. I have had many female friends, and, before I came out, might have played a role in “pretend dating” as a cover due to my being a closeted homosexual, but I was never once physically attracted to any of the women. Further, I would say that the idea of sex with a woman physically, repulses me. I fantasize about and enjoy romance and sex with men exclusively. There are many other things that I could say to prove my proclivities, but for the sake of decorum I will say emphatically that I am gay and reading the defendants’ 56.1 statement where they try to portray me as homosexual with a liking to grope women, is bigoted and offensive. I doubt in the history of time there have been few straight men who have attempted to cover as being gay, and to imply, as Maynard and his attorney do – that homosexuality is something that can be turned on and off suggests – as Maynard did when he terminated me – that being gay is an “escapade.” That word, is defined as an adventure, an antic, or an exploit. My being gay is none of those things. My being gay is part of who I am and I have always been gay, even while I was closeted.

11. While people normally assume I am straight, again, I never once told Ray Maynard I was gay. I eventually told at least one staff member that I am gay, then most if not all of the staff knew, and it is logical that word got to Ray as well. I flatly deny that Maynard knew that I am gay until I let other staff people know and word must have gotten to him. I have never in my life experienced someone cry when I told them I am gay, as Ray testified two women did in 2001.

12. The skydiving community is mostly composed of a collection of very unique types of people and my co-workers were constantly joking around. In 2001, many of the jokes revolved around my homosexuality. I do not think that any of my co-workers were malicious about it, but at times it got to be a bit too much to shake off, and I found it distracting and embarrassing. I was named "Gay Don" by someone and the name stuck. I grew used to it, but I would not have chosen it nor did I choose it myself.

13. I worked at SDLI again starting in 2009. At the beginning of that season I had a conversation with the staff to tone down the amount of gay jokes from 2001, as I was concerned about it being overboard in a professional work setting. Though I knew no one was being malicious, I had grown out of the novelty of accepting it. The jokes were fewer, but they did not stop.

14. I worked for a couple of months in the 2009 season until, unfortunately, at the beginning of July, I did a tandem with an overweight passenger (over 225 pounds). Nothing went wrong on the jump, and the landing was normal. Nevertheless, I broke my right ankle, and could

not work for the rest of the summer. My doctors were not sure when I would be recovered enough to jump, so I stayed in Long Island, but could never go back and eventually went home.¹

15. I told Ray that I was ready and willing to return to the drop zone as soon as I could, and remained in New York, ready to start jumping again as soon as possible. My leg was in a cast, for which color I chose pink, which is, by virtue of the Pink Triangle, the symbol that represents gay people. Straights wear pink, but it is not often that one sees a straight man wearing pink. I chose pink specifically to identify with my sexuality, that is why when I wear my pink cap, no one asks if I am gay, but when I do not, they assume I am straight. A picture of me in my pink cast and painted pink toenails is attached as “Exhibit A.”

16. While I was in Long Island waiting to get back to work, there were emails calling for staff meetings, some “mandatory.” See Exhibit A, which was marked as “Callanan 3” at the deposition of Lauren Callanan. At the “mandatory staff meeting” announced at Exhibit B, which was marked as Exhibit 22 at the Maynard Deposition, I showed up with my pink cast, and as it was summer, my foot in the cast was bare. See Exhibit A.

17. Ray saw the cast, demanded that I paint the cast black if I were to stay at the dropzone that day. But the allegation, made by defendants, that the reason they didn’t want me hanging around the drop zone with a cast because it would scare other customers away is demonstrably untrue. I was on crutches, see Exhibit A, and to cover a cast with black paint would fool no one. Imagine from the picture attached as “A” I am still on crutches where the only difference is that the cast is painted black. No one would be fooled that I was not injured. Additionally, the suggestion that he asked me to cover the cast is belied not only by the fact that to paint it black or would fool no one, but there is a woman at the hospital at the same time I was

¹ I started this lawsuit as a citizen of Missouri, but had to leave because the land upon which my residence was standing on was sold and I am for the duration in Texas.

– Tara, the girlfriend of a co-worker by the name of Ed Reiter – who came to the drop zone on crutches after her jump accident where she broke her back on a landing, which happened the within days of my accident. She was not asked to leave by Ray because of not wanting broken jumpers around customers.

18. Additionally, at one time in 2009, after I broke my ankle, but while the pink cast was off and I was still healing, I was at the dropzone and encountered Ray near a coke machine. I took off a boot that covered my entire foot and Ray said about my pink toenails and said “That’s gay!” in a derogatory tone. Since the boot covered my foot, he did not demand I paint them black, but the fact that I was allowed to remain at the dropzone with a recovery boot – clearly evidence of an injury – demonstrates that Ray’s objection was the color, not any worry that a customer would be afraid to go on a tandem jump. Ray’s safety video, as well as the waiver all passengers sign, mentions death as a possible outcome, and dissuading anyone who has any fear of jumping. This further demonstrates the falsehood of Ray’s explanation for objecting to my pink cast and pink toenails.

19. My doctors would not clear my return to work in the summer of 2009 but before I left in or about late August/early September was rehired for the following summer.

20. I returned in May 2010. Nothing of incident occurred for about a month. On Friday, June 18th, 2010, however, I was in attendance at work performing my routine duties taking primarily first-time passenger jumpers on their first skydives. It was a typical day for me at work and the start of a fairly busy weekend of jumping. At some point that day, a couple came to Skydive Long Island to make their scheduled jumps. It was a heterosexual couple making a jump, which, I later learned, was to be a birthday present for the female from the boyfriend.

21. I was randomly assigned to take the female jumper (Rosana Orelana) and a co-worker was assigned to take the male (David Kengle). The couple was manifested aboard the same aircraft so that they could jump at the same time. Both passengers ordered videographer services provided by the drop zone, which involves a third jumper to document the event taking video and/or still photography. At some point during the ride in the aircraft to the designated jump altitude, another employee of the drop zone had asked Mr. Kengle what he thought about his girlfriend being strapped to another guy in presence of myself, Rosana, and other passengers and staff in the aircraft.

22. This is a common joke or statement made before an opposite sex couple does a jump to loosen the tension, though it has long lost its humor to me and is not funny to every customer, particularly Rosana and Kengle, and her discomfort embarrassed me; I wanted her to know that despite our being so physically close to each other, I got no gratification from it.

23. I sensed Rosana felt awkward by that comment, and I did too; I did not want to be presumed to be heterosexually attracted to her, so I in front of Rosana (and others in the aircraft if they should have happened to hear) stated that she should not to worry about me because I am gay. She testified that I said I told her I had just broken up with my boyfriend; I don't think I said that because it is not true - my ex and I broke up years ago. What I believe I said was that "and I have an ex-husband to prove it."

24. While I was in the aircraft that day, as on any jump, if you are sitting on a bench, straddled, and a passenger is sitting between your legs, the instructor's legs are forced to spread apart. In that position, your arms naturally end up resting on your legs and your hands naturally rest near the hips are of the passenger; the passenger is strapped to you, sitting between your legs in very close proximity. This is normal. In the cramped aircraft, there is no other place to put

them. I have never had a passenger injury, so why should I do things differently for Rosana – who said nothing about being uncomfortable; I also had no idea that she was claustrophobic and didn't even read the waiver about touching. To have strapped her more loosely might have resulted in her injury or fatality. See Exhibit C, Notice from United Parachute Technologies (“If you think you are doing your student a favor outside of your normal or recommended procedures, you could be making a fatal error in judgment.”)

25. Furthermore, speaking into someone's ear is normal. The passenger's head is right in the instructor's face when strapped together and more particularly giving final instructions in a noisy environment right into the ear of the passenger so as not to be shouting, but rather calmly giving instructions as we go through all the processes towards the jump and landing. Due to the surrounding noise, this calm delivery might be interpreted as a whisper.

26. There was nothing more said about anything at that time about me and the jump operation went forward and was performed in the normal manner expected. I took her up on the jump, she saw the scenery that is to be seen, and iterated “awesome!” at the end of the jump.

27. The couple landed within seconds of each other and happily took pictures together in the landing field and together with the other instructor and myself. That was the last interaction I had with either of these two customers until their deposition where Kengle, now knowing I was gay - or fearing as he testified that gay men like to flirt with women - wanted to be in the deposition room to protect Rosana from me. I also witnessed Rosana back away from my attorney when he inoffensively moved closer to her to show her a video on a laptop.

28. The next three days were busy and I performed numerous jumps each day – Saturday, Sunday, and all day Monday, June 21st, 2010 – until sunset at which time I was called aside by the owner of Skydive Long Island, Ray Maynard, into an unplanned, private meeting in

his office area just after sunset located in the passenger video briefing room adjacent his office. Ray proceeded to question me about a jump I performed on the previous Friday. It was now Monday. He was asking me to recall a specific jump I had done with Rosana. I could not recall any details about any specific jump after so many jumps and days had passed.

29. I said that to Ray, yet he proceeded to press me to recall and acknowledge specific knowledge of this one jump. I told him that I did not know anything specific about the jump he was referring to. He told me that I had taken Rosana on a jump on Friday, June 18th and that there was a complaint about my sexuality coming up in front of the customers. I did not either confirm or deny that it came up because I did not have specific recollection of that jump, which is very common after a busy few days and after about 30 jumps.

30. I also stated to him that, as he knew, it was quite common that my sexuality was raised by numerous staff, friends, and visitors at the drop zone everyday and that it comes up all the time and in front of customers, and that I did not know if I had said something or if someone else did about it.

31. Ray proceeded to inform me that the customers were offended by it and that it was inappropriate for my sexuality to come up and that he was suspending me for one week, without pay, and as well was going to dock my pay for the full cost of two tandem jumps and two video/picture packages while claiming he was forced to refund the customer's money and I was going to pay for it. This he did.

32. I said to Ray that if attention to my sexuality is a problem that he was going to need to have a meeting with everyone to tell them not to joke about it anymore in front of customers. He replied that there was going to be a meeting about it in my absence. I asked him if that was it or if there was anything else and he said yes there was something more. I asked him

what and he replied stating that I had inappropriately touched Rosana during the jump. I was surprised to hear such a thing and asked him to verify my understanding of which passenger, the male or female, that I took on the skydive.

33. He said it was the girl, referring to Rosana. Not believing what I had just heard, I asked Ray to specifically state where she had been inappropriately touched at which time Ray stuttered and pointed at his hips and said it was at the hips. To be sure I understood what Ray was saying, I asked him, summarizing, that what was happening is that me, the gay guy, was being suspended for my sexuality being mentioned in front of Rosana and her boyfriend and I am also being accused of touching my female passenger at the hips in an act of heterosexual misconduct. I asked Ray if that was seriously what he was proceeding on and he just looked at me.

34. Rosana testified at her deposition that she wanted for me to do what was necessary to safeguard her on the jump. If I had not attached the required hip attachments, and adjusted them as necessary, she easily could have fallen out of the harness, died, and I would have lost my license (or worse) for that, since it would result in a fatality.

35. I then pointed out that since he was taking money from me for two video packages that there must be video and still camera footage of both jumps and that I would like to see it. He refused to allow me to see the videos stating to me that it was irrelevant. I responded that I thought it was relevant and that I would like to see it and suggested to him that we pull the manifest log from that Friday and see which videographer filmed the jumps and we look at the raw footage and see if there was a problem. He refused again and stomped outside.

36. After he left the office, I composed myself and proceeded outside at which time I came across Rich Winstock who was at the time the chief instructor at the drop zone. I asked to

speak with him urgently at which time we went to the drop zone classroom where I informed him about everything that just transpired. During the conversation, Ray barged open the door and in disgust shouted at us talking about what Ray and I had just spoken about, and left, slamming the door back closed.

37. Rich calmed me and assured me that he would try to talk some sense into Ray and that I should go on home and we would be in contact during the week. We did exchange email that week about the progress with the situation. He ensured me that he would advocate on my behalf with Ray stating also that the decision to continue my employment would be left with Ray the Sunday night before my scheduled return to work from suspension.

38. I returned to work on time on Monday, June 28, 2010 at 9:00AM. Ray was nowhere on the drop zone. I waited for several hours until Ray returned at which time he called me into the same room he had the suspension meeting with me a week prior, this time with Lauren Callanan in attendance. I had an iPhone voice recorder to document the meeting.

39. The tape of the meeting is attached as "Exhibit D." In sum, Ray told me in extremely angry terms that I was terminated.

40. I pressed further for answers or a reason for my termination. Ray got further agitated refusing to offer a reason again, then attempted to claim it was not a "gay issue" but that I had ruined a man's fiancé's birthday by talking about my personal life with the customer, and stating that if Rich Winstock had done the same, he would be fired too. In fact we know this to be a lie because Rich later quit to Ray's dismay²; he also testified in his deposition that he did, on occasion, referencing his sexuality by referring to his wife and children, and Ray did not fire him.

² See Exhibit E, email from Rich Winstock from me.

41. I pressed further for an acceptable explanation for him not investigating the allegations and suggested that perhaps they were simply trying to get a refund for a bogus claim. Ray lied and said they refused a refund, but the record now shows he gave one. And Kengle accepted it. He refused to answer my questions as to whether he investigated.

42. Rather, he re-iterated that this was the action that is being taken, told me to get my things out and left the room much in the same angry manner as the week prior. I asked Lauren, who was the office manager, to provide me with final jump logs and I also attempted to get from her the information Ray refused to give me about the video footage of the two tandem jumps. She refused, stating that it was on Ray's orders.

43. I proceeded to the staff video room area to collect my equipment. There was confusion among my colleagues. I had little time to say anything to them about what had happened. I asked the room if anyone knew why I had been gone and they did not. I asked a closer colleague videographer to check his records for the name of my passenger I took, he did and showed me that it was not he. I was unable to determine who filmed either jump and at that time I did not know David Kengle's name either or Rosana's last name, although Rosana's first name was on my manifest. I asked my colleagues to come forward with any information they might have later, and also stated that this was not over as I was very upset.

44. During the month of July 2010, I sought employment at two drop zones. One was Ray's competitor. I had a meeting with the owner of Long Island Skydiving and discussed what transpired with SDLI. He regrettably informed me that this was not surprising behavior by Ray and apologized that I had experienced that treatment but did not have any openings at the time. There were no other possible employment opportunities within over 100 miles from the condo I had leased for the summer to work at SDLI.

45. I also answered an ad for employment at a large commercial Midwest drop zone in the third week of July by email exchange with that owner (Doug Smith, Chicagoland Skydiving Center). He was prepared to offer me employment based upon the positive feedback and recommendations he received about me up until he was told that I was suing SDLI – which, at that time, had not happened or been discussed with anyone. I asked the Mr. Smith to tell me who told him that and he refused and stated in an email that I would be hard-pressed to ever find work again if I pursued a lawsuit against Ray.

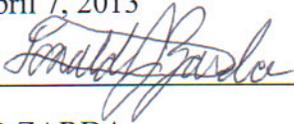
46. Before this event happened in my skydiving career, I had always enjoyed the sport and made it a life-long pursuit of 20 years through most all of my adult life to date. I made thousands of customers happy. I began working as an instructor just two years after my inception into the sport. Customers typically praised my performance – as did even Ray in his deposition – and I did received one email, attached as “Exhibit F” from Lauren Callanan and marked as “Callanan 2” at her deposition. She cannot explain why it was not turned over to us in discovery. I have seen the affidavit of Ray attached as “Exhibit G,” indicating that no electronic information had been destroyed. That would appear to be impossible, and at a minimum unexplained, if I have electronic information from 2009 that defendants attest that they search for but have not turned over. A search as outlined by Ray’s affidavit, Exhibit G, would have turned up the customer compliment attached as “Exhibit F.” However, it was I who produced it to the defendants, not the other way around.

47. The customer who wrote in Exhibit F that “[e]mployees like Don will be the reason for the continued success” of SDLI was like many of the thousands of passengers whom I took into the air and provided a safe, exhilarating experience that they will never forget. But this matter has ruined my relationship with skydiving both professionally and as the passionate

activity I partook in for personal enjoyment, social interaction and comradery among a diverse collection of people. As if having my sexuality illegitimately used against me in such a way wasn't terrible enough, falsely accusing me of the misconduct Ray Maynard cited in addition to trying to use that to cover up discriminating against me and lying and stealing from me; has damaged me severely. I know longer feel like I can be myself working jumping, especially tandem jumping having to strap people to me and touch in so many places to perform the job. Because of what Ray Maynard did terminating me for such reasons, regardless of the bogus customer complaint, I can no longer work in this industry without fear of having been branded as some kind of gay pervert. I cannot even enjoy non-work skydiving because there are tandem jumps taking place at every skydiving center and it is a stark and vivid reminder about what happened to me, which takes away the enjoyment I get from jumping and keeps me from interacting with friends and social circles developed over two decades. No amount of personal loss, injury, or death in the sport has ever pushed me away, until now.

Dated: Dallas, Texas

April 7, 2013

A handwritten signature in cursive script, appearing to read "Donald Zarda", written over a horizontal line.

DONALD ZARDA



EXHIBIT

tabbles®

CALLMAN 3
12-21-11

EXHIBIT A

Don Zarda

From: Skydive Long Island [funjumps@skydivelongisland.com]
Sent: Thursday, July 09, 2009 12:43 PM
To: SDLI
Subject: Staff Meeting this Saturday

Hey Guys!

Just wanted to let you know we have a busy weekend lined up with 120 on the books for Saturday and almost 100 so far for Sunday :-). Let's just hope the weather cooperates! **Also, we will have a mandatory STAFF meeting this Saturday at 7:30am.** See you all then!!

Blue Skies,

-L

EXHIBIT B

R 21

ADVISE-001 REV 0

Page 1 of 1

6/12/2012

UNINSURED UNITED PARACHUTE TECHNOLOGIES, LLC.



Attention all Tandem Instructors

Please review this before making your next Tandem Jump.

A similar notice was sent out last year and being that is the beginning of the season for most TI's, and because of a recent incident that has been reported to us we are sending this notice once again.

The incident that occurred is as follows:

An experienced TI was in the process of fitting the student harness onto a 85-year-old woman. He thought that he would do her a favor and leave the harness a bit loose. The TI thought that she was frail and did not want to make her uncomfortable or hurt her.

The result of this was that while they were exiting the aircraft she slipped down in the harness. This might have resulted in her being ejected from the harness. The fact that this harness had a Y-Strap, and that the TI managed to control the passenger by grabbing her, may have prevented a fatality.

What can we learn from this?

- 1. If you think you are doing your student a favor by doing something outside of your normal or recommended procedures you could be making a fatal error in judgment. Make sure the harness is fitted correctly.**

2. Not everyone is capable or physically suited to make a tandem skydive. You can say no.

3. Always have the student harness fitted correctly and in a jumpable configuration before boarding the aircraft. No exceptions.

It is important to note that by not following the manufacturers and USPA's guidelines you could have your TI rating revoked or suspended.

It is apparent that on occasion the Sigma student harness is not fitted correctly during the initial gear set up prior to boarding the plane. It is then extremely difficult to correctly fit the harness once in the aircraft, as the passenger will not be in an upright position. If the student is 'wide', it is important that the main lift web be moved further to the sides of the passenger - if the main lift web is too far forward then it leaves a bigger hole for the butt to slide out. Make sure that all straps are tightened including the **horizontal back strap** and the **diagonal back strap**. It is imperative that the harness is fitted correctly prior to boarding the aircraft.

No parachute harness can safely contain all body types. The Sigma student harness is no exception. Certain body types require careful evaluation and extreme care before the decision to let them jump is made. These groups include but are not limited to: the frail, woman with a high body mass index, extremely large or small people, amputees and paraplegics etc. The Y strap does increase the utility of a poorly adjusted harness somewhat but there will still be body types that cannot safely make a tandem jump. The complete assembly of the Y-Strap mod is available from UPT for \$120, or you can manufacture it yourself using the work instructions from our website. We highly recommend that each drop zone using our systems have a least one of this type of harness.

Mark Procos
General Manager
uninsured United Parachute Technologies LLC

EXHIBIT C

1645 LEXINGTON AVENUE ♦ DELAND FL 32724-2106 ♦ TELEPHONE +1 386 736 7589 ♦ FAX +1 386 734 7537

WWW.UPTVECTOR.COM

EXHIBIT D IS THE
RECORDING OF
PLAINTIFF'S
TERMINATION, PROVIDED
IN THE COURTESY COPY.

IT IS ALSO AVAILABLE AT
YOUTUBE <http://tinyurl.com/c3cs5k7>

IT IS ALSO AVAILABLE
STARTING AT PAGE 224 OF
THE MAYARD DEPOSITION

12:29pm



Rich Winstock

Hey Don,

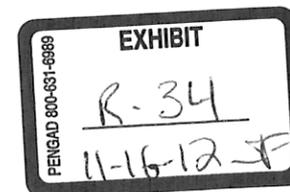
Just thought I would give you a heads up, I quit Skydive Long Island. I couldnt take Ray any longer, he and I have not seen eye to eye for a very long time. I thought you might get a smile from that one. Long story.

Stay Safe,

Rich

October 25

exhibit e



Rich Winstock

+ New Message

⚙ Actions ▼



I'm ok so far over here. Just trying to have fun without dying, lol! Lot of that going on lately!



Rich Winstock

5:45pm

Stay safe you crazy bastard. I have said this to you, to Ray, and to your attorney. I did not agree with how it was handled. I will testify at your trial the same way. Assuming it goes to trial. I said you were and are an excellent Tandem Instructor, and I stick by it. Watch out for the ground it comes up quick.lol Talk soon Pal



Donald Zarda

6:07pm

Ok, thank you man. Been a very tough few weeks over here. We have lost a lot of people.

Thanks for being straight up!

Cheers, ttyl man!

October 15, 2012



Rich Winstock

11:29am

Hey Don,
Just thought I would give you a heads up, I quit Skydive Long Island. I couldnt take Ray any longer, he and I have not seen eye to eye for a very long time. I thought you might get a smile from that one. Long story.

Stay Safe,
Rich

October 25, 2012

Date: Mon, 29 Jun 2009 20:18:44 -0400
From: Jim McVie <classicinteriortrim@gmail.com>
Subject: Thanks
To: funjumps@skydivelongisland.com
Reply-to: nst1@optonline.net
DKIM-Signature: v=1; a=rsa-sha256; c=relaxed/relaxed; d=gmail.com; s=gamma; h=domainkey-signature:mime-version:received:reply-to:date:message-id:subject:from:to:content-type; bh=cf4nZ0VglBcUdKrxv/fCjdDD6XaDnFetYDnpPRtZVF8=; b=leP0GAbOX0E2liBy/DbkRwoGzIf/1p214wKEW0CquS6Llpcqeb8LW4+RDAdHSzczgF2z8C/bWq1ex0NdWhsZeWubh0zUMIDSi1YWEWdDCzHSZw+CwpkSWgD80g5hwWJIW1xsbCASYvSjdCZ5b9U1QWmdlCrfG6dtzBMKIOv7505c=
DomainKey-Signature: a=rsa-sha1; c=noFWS; d=gmail.com; s=gamma; h=mime-version:reply-to:date:message-id:subject:from:to:content-type; b=SlnTyfZ0Z+CNFYLabDO6gqiYjU0r1kGNgpbXW9Heoa9svdBzbvwYcdHSrOG9Ut1miZ1WlcHWpF3tChJ94wZAZVZSYeTey+Gc7SiRUIRJozFcsLQo2cCauh+hS2PdUqg1ltxc1LOdGHXcjlUI8i7fMAshEHBxbpXJi+G1dgRApbU=
X-EN-OrigIP: 72.14.220.153
X-EN-IMPSID: A0Jk1c03w3KAdgQ0A0JIEv
Original-recipient: rfc822;jumperay@optonline.net

Just wanted to drop a note and compliment your tandem jump instructor Don from Kansas. He was very professional in every way and that made the entire experience even better. Employees like Don will be the reason for continued success. Looking forward to my next jump.
Jim McVie
Jumped Sat. 6-27-09

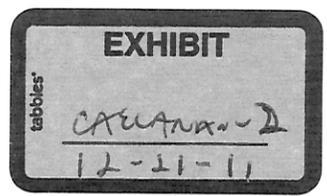


exhibit f

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

DONALD ZARDA,

Plaintiff,

- against -

**ALTITUDE EXPRESS, INC. d/b/a SKYDIVE
LONG ISLAND, and RAY MAYNARD,**

Defendants.

CASE NO.: 10-CV-4334(JFB)(ARL)

**AFFIDAVIT OF
RAY MAYNARD**

**STATE OF NEW YORK)
) ss.:
COUNTY OF SUFFOLK)**

RAY MAYNARD, being duly sworn, deposes and says:

1. An electronic search for electronic information regarding Donald Zarda was performed at my direction by Lauren Callanan at Altitude Express, Inc. d/b/a Skydive Long Island.
2. The electronic search included a search of emails, with search terms Don or Zarda.
3. No electronic information has been destroyed.

Ray Maynard

Ray Maynard

RAY MAYNARD

Sworn to before me this
4th day of October, 2012

19

[Handwritten Signature]

Notary Public

57
Notary Public, State of New York
No. 02274508081
Qualified in Suffolk County
Commission Expires January 5, 2015

exhibit g

